



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Van Mitchell, Secretary

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**June 30, 2016**

**TO:** Personal Assistance Agencies Serving CO/CFC/CPAS Participants

**FROM:** Whitney Moyer, Division Chief   
*In-Home Supports Assurance System (ISAS) Division*

**RE:** Guidance Regarding Updated COMAR Regulations 10.09.84

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Dear Agency Administrators:

On April 11, 2016, the State of Maryland Department of Health and Mental Hygiene (DHMH) issued updated regulations to the existing Community First Choice (CFC) / Community Options (CO) Waiver Programs (**COMAR 10.09.84**). All agency administrators are *required to read and understand* the regulations in their entirety and how they will impact agency operations.

The ISAS Division wanted to highlight several important pre-existing and updated regulations:

- Personal assistance providers must “allow participants to have a significant role in the delivery of their specific care including: (a) Directing the services and supports identified in their plan of service; and (b) Exercising as much control as desired to select, train, schedule, determine duties, and dismiss the personal assistance worker in their home” (COMAR 10.09.84.06).
- Personal assistance providers must use ISAS to record time worked (COMAR 10.09.84.24(A)).
- Provider agencies are required to “verify [participant’s] Medicaid eligibility at the beginning of each month that services will be rendered” (COMAR 10.09.84.05(A)(9)). Agencies can do this by calling: 1-866-710-1447 or visiting: [www.emdhealthchoice.org](http://www.emdhealthchoice.org).
- All agency administrators are reminded that they must check the Federal Exclusion List prior to hiring any staff member, (COMAR 10.09.84.05(B); COMAR 10.09.36.03 (12)). This list is found here: <https://exclusions.oig.hhs.gov/>.
- A personal assistance provider **may not** be the participant’s family member (spouse or parent of a minor dependent child) or be the participant’s representative.
  - “The representative is the person authorized by the participant, on the form provided by the Department, to serve as a representative” or “the individual who signs the Plan of Service on the participant’s behalf,” (COMAR 10.09.84.02(31)(a)(b)).

- “A personal assistance provider agency may not assign the participant’s representative to provide services to that participant,” (COMAR 10.09.84.06(C)).
- “Assistance means that another person physically performs the activity for the participant, physically helps the participant perform the activity, must be present while the participant performs the activity or cues and encourages the participant to perform the activity,” (COMAR 10.09.84.02(3)(a-d)).
  - Personal Assistance services can only be reimbursed if they are provided in the participant’s presence. Errands, including for groceries or medications, cannot be reimbursed unless the participant is escorted by the aide (COMAR 10.09.84.02(15)).
- No service will be reimbursed while the participant is admitted to a hospital, admitted to a nursing facility, admitted to an institution for mental diseases, or an intermediate care facility for individuals with intellectual disabilities, attending a day program, or not with the provider in the community (COMAR 10.09.20.01(b)).
- No service will be reimbursed if the participant is traveling outside the state of Maryland without prior approval from the Supports Planner (COMAR 10.09.84.23).

If you have questions related to a participant’s eligibility, speak with the Supports Planner as soon as possible, as they are able to research the reason(s) why the ineligibility is occurring and provide guidance on the next steps (if any) required by the personal assistance agency.

Questions or concerns regarding the regulation changes should be first directed to the participant’s Supports Planner. If they are unable to answer the question or the answer is not sufficient, please contact the DHMH CO/CFC Division at [dhmh.coproviders@maryland.gov](mailto:dhmh.coproviders@maryland.gov).

A copy of the CFC regulations (COMAR 10.09.84) can be found by clicking here: [http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.84.\\*](http://www.dsd.state.md.us/comar/SubtitleSearch.aspx?search=10.09.84.*).